

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES WILSON and
CHRISTINA WILSON

Plaintiffs,

Case No. 10-13689

Honorable John Corbett O'Meara

v.

FOUR WINDS INTERNATIONAL
CORPORATION, DAIMLER TRUCKS NORTH
AMERICA, LLC, d/b/a/ FREIGHTLINER
CUSTOM CHASSIS CORPORATION, and
GENERAL R.V. CENTER, INC.

Defendants.

ORDER OF PARTIAL REMAND

Plaintiffs filed this action against Four Winds International Corporation, Daimler Trucks North America (d/b/a Freightliner Custom Chassis Corporation), and General R.V. Center, alleging the following causes of action: Count I, breach of warranties; Count II, revocation of acceptance/recission; Count III, liability under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*; Count IV, misrepresentation/negligence; and Count V, violation of the Michigan Consumer Protection Act, Mich. Comp. Laws Ann. 445.901 *et seq.* Defendants filed timely notice of removal.

The parties stipulated that defendant General RV Center, Inc. be dismissed with prejudice on September 29, 2010. An order granting Four Winds International Corporation's motion for summary judgment was entered February 7, 2011. Thus, only Daimler Trucks North America, LLC, and Cummins, Inc., remain as defendants in this suit.

Of the five counts in the Complaint, only Count III gives rise to federal question jurisdiction under 28 U.S.C. § 1331. The remainder of Plaintiffs' Complaint alleges causes of action based solely on state law. In order to avoid jury confusion, the court will decline to exercise supplemental jurisdiction over the state law claims. *See* 28 U.S.C. § 1367(c); *United Mine Workers v. Gibbs*, 383 U.S. 715 (1966); and *Padilla v. City of Saginaw*, 867 F. Supp. 1309 (E.D. Mich. 1994).

Accordingly, it is hereby **ORDERED** that Counts I, II, IV and V are **REMANDED** to the Circuit Court for the County of Oakland.

Date: February 8, 2011

s/John Corbett O'Meara
United States District Judge

I hereby certify that on February 8, 2011, a copy of this order was served upon counsel of record using the ECF system.

s/William Barkholz
Case Manager